

## Office of the Attorney General State of Texas

DAN MORALES
ATTORNEY GENERAL

December 28, 1995

Ms. J. Praba Cinclair Assistant City Attorney Criminal Law and Police Division City of Dallas City Hall Dallas, Texas 75201

OR95-1608

Dear Ms. Cinclair:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35252.

As a threshold matter, the City of Dallas (the "city") received a request for information under the Open Records Act on July 17, 1995. You requested a decision from this office by letter dated August 11, 1995. Consequently, you failed to request a decision within the ten days required by section 552.301(a) of the Government Code.

Sections 552.301 and 552.302 require a governmental body to release requested information or to request a decision from the attorney general within ten days of receiving a request for information that the governmental body wishes to withhold. When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. Hancock v. State Bd. of Ins., 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); City of Houston v. Houston Chronicle Publishing Co., 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body may overcome this presumption only by showing that the information is confidential or that an exception designed to protect the interest of a third party is applicable. See id.; Open Records Decision No. 552 (1990).

The requestor seeks copies of all investigative documents related to the murder of a particular individual. You state that the particular murder case was closed following the prosecution of the suspects and that there exists no further related investigation. You contend that, though ten days have passed since the city received this request for information, the related documents are excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with section 51.14(d) of the Family Code, since the murder case involved juveniles. You have submitted for our review the documents at issue.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 51.14(d) of the Family Code, as amended by Acts 1993, 73d Leg., ch. 461, § 3, at 1852, 1854, provides, in pertinent part:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public . . . .

See also Open Records Decision No. 181 (1977) at 2 (police reports that identify juveniles or furnish basis for their identification are excepted by section 51.14(d)).

We have examined the information submitted to us for review. We assume that the juvenile was not transferred under section 54.02 of the Family Code, and that none of the exceptions to section 51.14(d) apply. We conclude that most of the documents submitted for our review are police reports that identify juveniles or furnish a basis for a juvenile's identification and must, therefore, be withheld from required public disclosure under section 552.101 of the Government Code in conjunction with section 51.14(d) of the Family Code.

While many of the submitted documents are within the ambit of section 51.14(d) of the Family Code, we note that an autopsy report is included among the documents submitted to us. Section 11 of article 49.25 of the Code of Criminal Procedure expressly provides that autopsy reports are public records. Therefore, you must disclose the autopsy report to the requestor.

<sup>&</sup>lt;sup>1</sup>The Seventy-fourth Legislature, in House Bill 327, has significantly amended portions of the Family Code governing access to juvenile records, including the repeal of section 51.14 and its substantial revision in chapter 58 of the Family Code, effective January 1, 1996. See Act of May 27, 1995, ch. 262, §§ 53, 100, 105. We do not address in this ruling the extent to which these recent amendments to the Family Code will affect requests for this information that are made on or after January 1, 1996.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

Kathryn P. Baffes

Assistant Attorney General Open Records Division

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Ref: ID# 35252

Enclosures: Submitted documents

cc: Mr. Christopher L. Bagby

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(w/o enclosures)